

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC,**

Plaintiff,

v.

**EXCLUSIVE GROUP LLC D/B/A
BINATONE NORTH AMERICA**

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

Defendant.

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “RBDS”) files this complaint against Exclusive Group LLC d/b/a Binatone North America (“Binatone North America”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the ‘221 Patent”) and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office at 1 East Broward Boulevard, Suite 700, Ft. Lauderdale, FL 33301.
2. On information and belief, Defendant is an Indiana limited liability company, with a place of business at 11550 North Meridian Street, Suite 525, Carmel, IN 46032, North America. On information and belief, Defendant may be served through its agent, Cogency Global Inc. at 850 New Burton Road Suite 201, Dover, DE 19904.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because Defendant is deemed to be a resident in this District. Alternatively, acts of infringement are occurring in this District, and Defendant has a regular and established place of business in this District.

PATENT-IN-SUIT

8. Plaintiff is the sole and exclusive owner, by assignment, of U.S. Patent No. 8,856,221 (hereinafter "the '221 Patent"). The '221 Patent is attached as Exhibit A.

9. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Plaintiff possesses all rights of recovery under the '221 Patent, including the exclusive right to recover for past, present and future infringement.

11. The inventor of the '221 Patent, Mr. Leigh M. Rothschild, was Chairman and Chief Executive Officer of IntraCorp Entertainment, Inc., a consumer software company with worldwide product distribution. From October 1998 through February 2004, Mr. Rothschild was

also Chairman and founder of BarPoint.com, a NASDAQ publicly traded wireless company that was the leader and early creator of connecting symbology, such as barcodes, to the Internet.

12. Mr. Rothschild is a former presidential appointee to the High-Resolution Board for the United States under former President George H.W. Bush, and has also served as an advisor for former President Ronald Reagan. Mr. Rothschild served Governors on technology boards, served as a special advisor to then Florida Secretary of Commerce John Ellis “Jeb” Bush, and served on the IT Florida Technology Board as an appointee of former Governor John Ellis “Jeb” Bush.

13. Mr. Rothschild chairs the Rothschild Family Foundation, which endows outstanding charities and institutions around the world.

14. The '221 Patent contains thirteen claims including two independent claims (claims 1 and 7) and eleven dependent claims.

15. The priority date of the '221 Patent is at least as early August 29, 2011. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.

16. Plaintiff alleges infringement on the part of Defendant of the '221 Patent.

17. The '221 Patent teaches a method and apparatus for media content storage and delivery. *See* '221 Patent, Abstract. Among other things, the claimed system includes a server, which has a receiver in communication with a processor. *Id.* The receiver receives a request message. *Id.* The request message includes media data indicating requested media content and a consumer device identifier corresponding to a consumer device. *Id.* The processor determines whether the consumer device identifier corresponds to a registered consumer device. *Id.* If the processor determines that the consumer device identifier corresponds to the registered consumer

device, then the processor determines whether the request message is one of a storage request message and a content request message. *Id.* If the request message is the storage request message, then the processor is further configured to determine whether the requested media content is available for storage. *Id.* If the request message is the content request message, then the processor initiates delivery of the requested media content to the consumer device.

18. As noted, the claims of the '221 Patent have priority date at least as early as August 29, 2011. The present invention solves problems that existed with then-existing media delivery systems. One problem with prior delivery systems is that the customer was charged according to the expenses of the provider rather than the usage of the customer. '221 Patent, 1:31-57. Customers were not charged based on the amount of programming delivered or the amount or duration of the customer's storage of media. *Id.* Another such problem, more generally, is that customers were not billed and services were not provided, in a way that was tailored to the customer's needs and usage. *Id.*, 2:3-13.

19. The claims of the '221 Patent overcome deficiencies existing in the art as of the date of invention, and comprise non-conventional approaches that transform the inventions as claimed into substantially more than mere abstract ideas. For example, the inventive system includes a processor in communication with a receiver. *Id.*, 2:23-34. The processor determines media content characteristics that correspond to the media content to be stored. *Id.* The processor determines a length of time to store the media content based on the media data and determines a cost amount based at least in part on the determined media content characteristics and length of time to store the media content. *Id.* As another example, the system makes a determination that media content is available for download. *Id.*, 2:64-3:2. A determination is

made that content is not stored. Download of the media content is initiated. *Id.* The media content is received and the received media content is stored. *Id.*

20. The ‘221 Patent is directed to computerized technologies to provide users with tailored media delivery systems and tailored billing for such systems. Among other things, the ‘221 Patent claims include sending and receiving of request messages indicating requested media content and including a device identifier corresponding to a consumer device. A determination is made whether the identifier corresponds to the device. A determination is also made as to whether the request is for delivery or storage. The media data in the request includes time data that indicates a length of time for storage. A processor is configured to determine whether requested media exists and whether there are any restrictions associated with delivery or storage of the requested media.

21. The system(s) and methods of the ‘221 Patent include software and hardware that do not operate in a conventional manner. For example, the software is tailored to provide functionality to perform recited steps and the processor is configured (and/or programmed) to provide functionality recited throughout the claims of the ‘221 Patent.

22. The ‘221 Patent solves problems with the art that are rooted in computer technology and that are associated with electronic transmission, loading, and storage of location information, as well as automatic provisioning of route guidance. The ‘221 Patent claims do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet.

23. The improvements of the ‘221 Patent and the features recited in the claims in the ‘221 Patent provide improvements to conventional hardware and software systems and methods.

The improvements render the claimed invention of the '221 Patent non-generic in view of conventional components.

24. The improvements of the '221 Patent and the features recited in the claims of the '221 Patent are not those that would be well-understood, routine, or conventional to one of ordinary skill in the art at the time of the invention.

25. The '221 Patent was examined by Primary United States Patent Examiner Hua Fan. During the examination of the '221 Patent, the United States Patent Examiner searched for prior art in the following US Classifications: 709/203; 709/204; 709/231; 709/226; and 709/249.

26. After conducting a search for prior art during the examination of the '221 Patent, the United States Patent Examiner identified and cited the following as the most relevant prior art references found during the search: US 6,882,639; US 7,496,608; US 8,108,441; US 2002/0069252; US 2003/0014630; US 2003/0060264; US 2003/0061281; US 2005/0021869; US 2005/0076220; US 2006/0080452; US 2010/0217759; US 2010/0223385; US 2010/0268736; US 2010/0332456; and US 2011/0066687.

27. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiner allowed all of the claims of the '221 Patent to issue. In so doing, it is presumed that Examiner Fan used his knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Fan had experience in the field of the invention, and that the Examiner properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002). In view of the foregoing, the claims of the '221 Patent are novel and non-obvious, including over all non-cited art which is merely cumulative with the referenced and

cited prior art. Likewise, the claims of the '221 Patent are novel and non-obvious, including over all non-cited contemporaneous state of the art systems and methods, all of which would have been known to a person of ordinary skill in the art, and which were therefore presumptively also known and considered by Examiner Fan.

28. The claims of the '221 Patent were all properly issued, and are valid and enforceable for the respective terms of their statutory life through expiration, and are enforceable for purposes of seeking damages for past infringement even post-expiration. *See, e.g., Genetics Institute, LLC v. Novartis Vaccines and Diagnostics, Inc.*, 655 F.3d 1291, 1299 (Fed. Cir. 2011) (“[A]n expired patent is not viewed as having ‘never existed.’ Much to the contrary, a patent does have value beyond its expiration date. For example, an expired patent may form the basis of an action for past damages subject to the six-year limitation under 35 U.S.C. § 286”) (internal citations omitted).

29. The nominal expiration date for the claims of the '221 Patent is no earlier than November 21, 2031.

ACCUSED INSTRUMENTALITIES

30. Upon information and belief, Defendant sells, advertises, offers for sale, uses, or otherwise provides media content storage and delivery systems and services, including, without limitation, the Hubble cloud-based IP security camera, any associated hardware, software, and apps, as well as any similar products (the “Accused Instrumentalities”), which infringe at least Claim 7 of the '221 Patent.

COUNT ONE **(Infringement of United States Patent No. 8,856,221)**

31. Plaintiff refers to and incorporates the allegations in Paragraphs 1-30, the same as if set forth herein.

32. This cause of action arises under the patent laws of the United States and, in particular under 35 U.S.C. §§ 271, *et seq.*

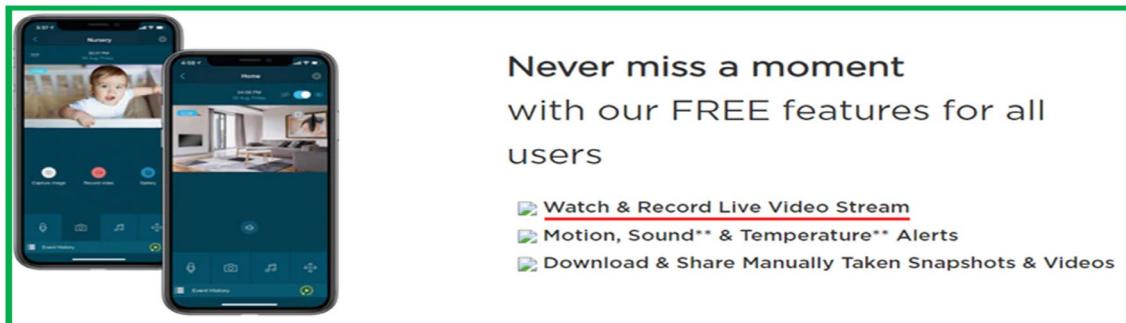
33. Defendant has knowledge of its infringement of the '221 Patent, at least as of the service of the present complaint.

34. Accordingly, Defendant has infringed and continues to infringe, the '221 Patent in violation of 35 U.S.C. § 271. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 7, of the '221 Patent by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities.

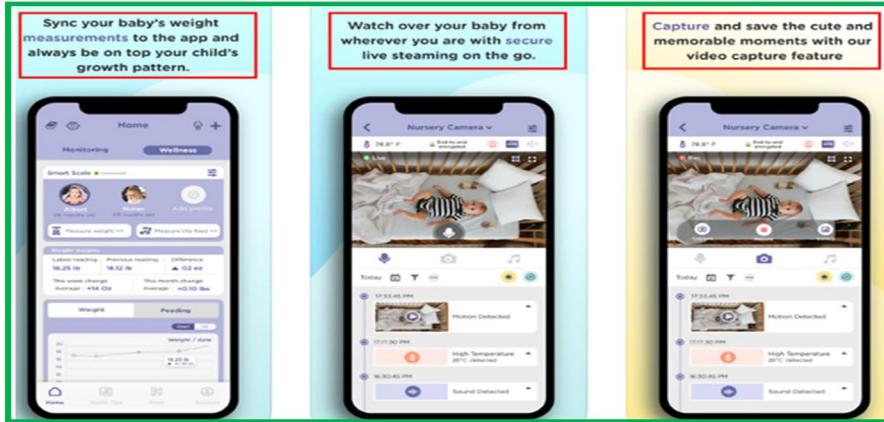
35. The Accused Instrumentalities practice a method of storing (e.g., cloud storage) media content (e.g., conference recording) and delivering requested media content (streaming video, recorded videos, etc.) to a consumer device (e.g., mobile device with app or software). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

HubbleClub app allows you to connect to the new line of Hubble Connected Nursery products that allows you to watch over your baby and stream video feed anytime and from anywhere. Review daily summaries, sleep insights about your baby's wellbeing. Receive sound, motion, and temperature alerts in real-time, straight to your phone. Use baby growth and development tracker to track our baby's height, weight, sleep schedules, feeding times, diaper changes, and pumping durations.

Source: <https://apps.apple.com/ca/app/hubbleclub-by-hubble-connected/id1552190877>



Source: <https://hubbleconnected.com/pages/plans>



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You can download any captured video to your in-app gallery. This will store the video within the app on your phone rather than in the cloud. You can also manually download videos directly to your phone's gallery, other cloud storage services, or share them by email, SMS, WhatsApp, Facebook and other sharing services.

Source: <https://support.hubbleconnected.com/knowledge-base/how-and-where-are-my-motion-triggered-videos-saved-and-stored/>

Motion-triggered videos are automatically stored in our secure cloud servers* and uploaded onto your timeline in the Hubble Connected for Motorola Monitors app and the Hubble Connected web app.

You should be aware that videos are deleted from the Hubble Connected for Motorola Monitors app and our servers on an ongoing basis according to the Hubble Membership Plan you selected.

For example, if you are on the Essentials Hubble Connected Plan, you can see any videos within 14 days day period, and as events pass this period they are also deleted forever. You have the option of downloading motion-triggered videos to your chosen device(s).

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With Hubble Connected, you can also stay connected to your loved one on-the-go with features like

- Secure Live Streaming
- Video Recording during live feeds
- Two-way talk
- Soothing lullabies and audiobooks
- Extended camera sharing with friends and family
- Motion activated video recordings
- Secure Cloud Video Storage
- Online Sleep Consultant

Source: https://play.google.com/store/apps/details?id=com.hubblebaby.nursery&hl=en_CA&gl=US

36. The Accused Instrumentalities necessarily include a receiver configured to receive a request message including data indicating requested media content (e.g., the Accused Instrumentalities must have the infrastructure to receive a request to store recorded media content or to stream recorded media content on a smartphone; additionally, the request message must contain data that identifies the content to be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to access the contents of the Product). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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Source: <https://apps.apple.com/ca/app/hubbleclub-by-hubble-connected/id1552190877>



Never miss a moment
with our FREE features for all users

- Watch & Record Live Video Stream
- Motion, Sound** & Temperature** Alerts
- Download & Share Manually Taken Snapshots & Videos

Source: <https://hubbleconnected.com/pages/plans>

You can download any captured video to your in-app gallery. This will store the video within the app on your phone rather than in the cloud. You can also manually download videos directly to your phone's gallery, other cloud storage services, or share them by email, SMS, WhatsApp, Facebook and other sharing services.

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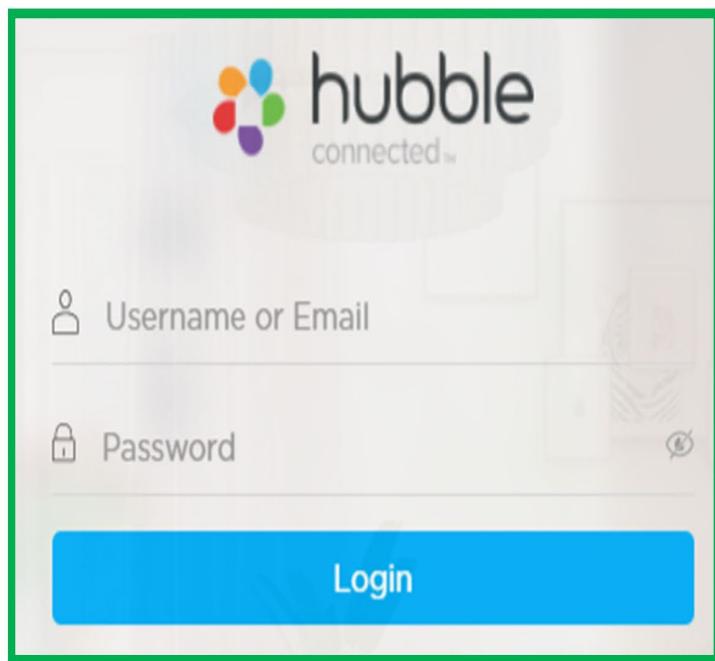
Connect your Hubble Connected Device and view the live stream via the Hubble Connected app. Here you will also be able to access other free features. Depending on the device these may include: motion, sound and temperature alerts. Please note that to access motion-triggered video alerts you must upgrade to one of our paid subscription plans:

Source: <https://hubbleconnected.com/pages/hubble-service>

Last 30 Days of Motion Detection Video (Subscription Service)

Connect for your Hubble Connected Device accessing the live feed, and in addition, you will be able to view any 'events' captured via your device. These 'events' are short videos that are recorded to the Cloud when motion is detected by your device. This service can be applied to up to 15 Hubble Connected devices.

Source: <https://hubbleconnected.com/pages/hubble-service>

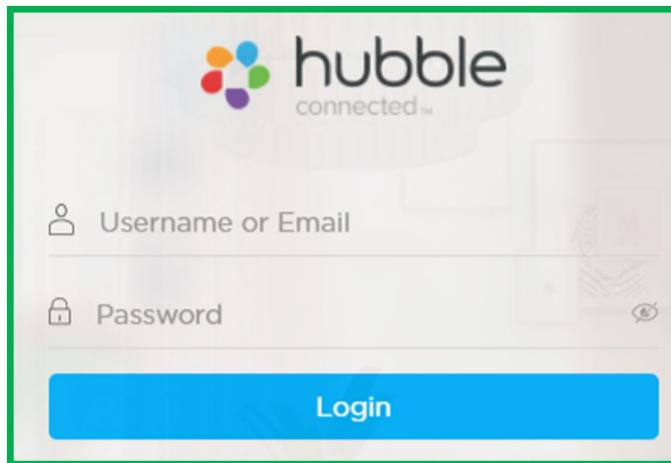


Source: <https://club.hubbleconnected.com/>

37. The Accused Instrumentalities necessarily determine whether the consumer device identifier corresponds to the registered consumer device (e.g., a user must be a registered user to access the Product's services). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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Source: <https://club.hubbleconnected.com/>

38. The Accused Instrumentalities provide for both media downloads and/or storage, and media streaming. After a successful login, the Accused Instrumentalities necessarily determine whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g., streaming of media content). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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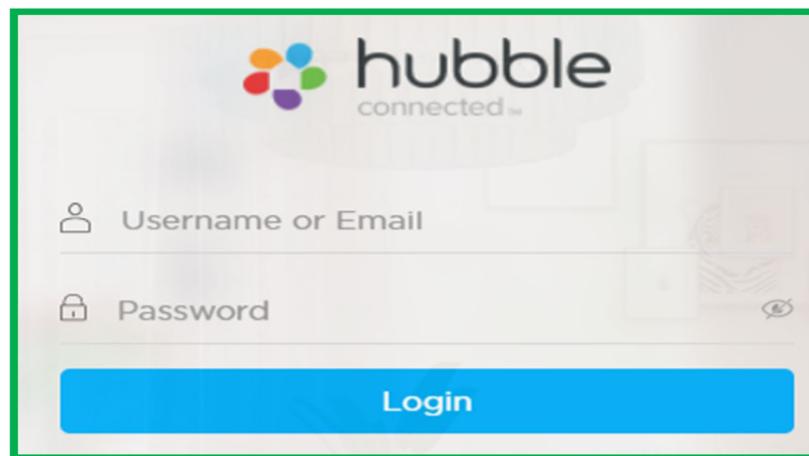
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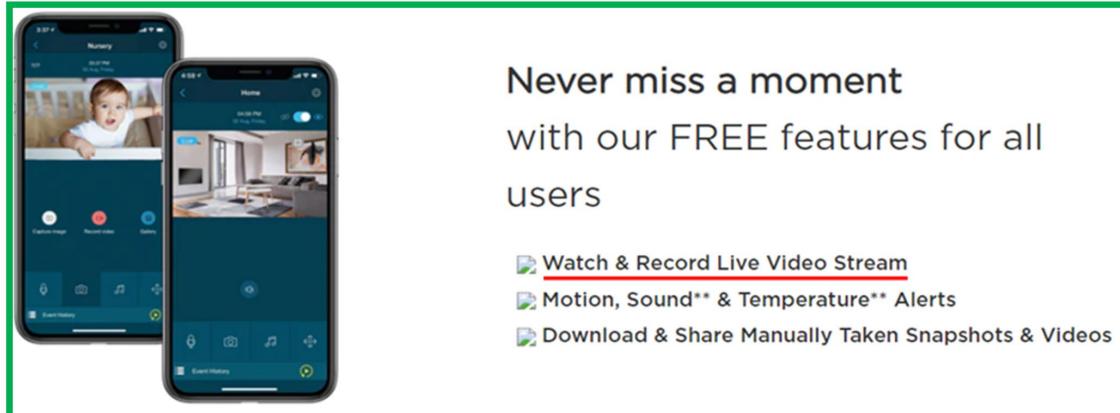


Source: <https://club.hubbleconnected.com/>

39. The Accused Instrumentalities verify that media content identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage. The Accused Instrumentalities must verify that the media content (e.g. specific recording) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the product must verify a user's ability to store media content is limited to a certain amount of memory and/or time). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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Connect your Hubble Connected Device and view the live stream via the Hubble Connected app. Here you will also be able to access other free features. Depending on the device these may include: motion, sound and temperature alerts. Please note that to access motion-triggered video alerts you must upgrade to one of our paid subscription plans:

Source: <https://hubbleconnected.com/pages/hubble-service>

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Source: <https://hubbleconnected.com/pages/hubble-service>

40. If a customer requests content (e.g., live streaming of media content), then a processor within the Accused Instrumentalities necessarily initiates delivery of the content to the customer's device. The Accused Instrumentalities will initiate delivery of the requested media content to the consumer device (e.g., stream media content feed to a smartphone or tablet, etc.) if the request message is a content request message (e.g., request for live streaming). Certain aspects of these elements are illustrated in the screenshots below and/or in screenshots provided in connection with other allegations herein.

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41. The media data includes date and time information to identify conference start and stop times, as well as meeting length. Time data may also indicate a length of time to store the requested media content (e.g. a user is allowed to store media content for a retention period configured by the user per their subscription level). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

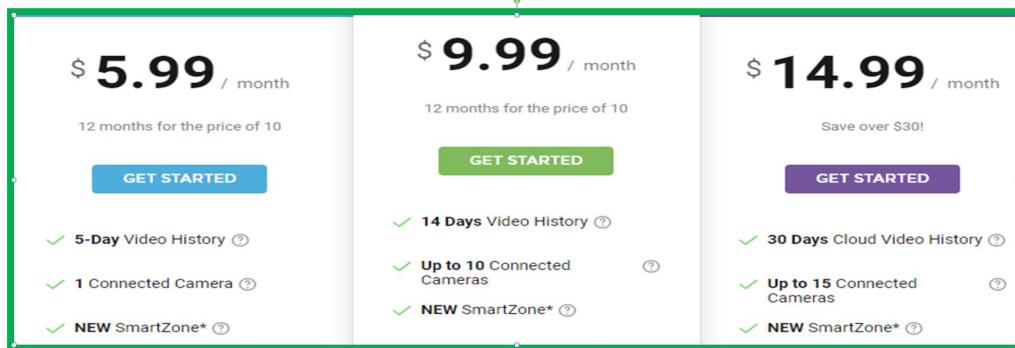
Can I record motion videos 24/7?

Unfortunately, it is not possible. Currently we do not offer 24/7 recordings.

At the moment we offer 3 membership plans:

- **Lite** plan offers 5 days of video storage and can be applied to 1 camera;
- **Essentials** plan offers 14 days of video storage and can be applied to 10 cameras;
- **Select** plan offers 30 days of video storage and can be applied to 15 cameras.

Source: <https://support.hubbleconnected.com/knowledge-base/can-i-record-motion-videos-24-7/>



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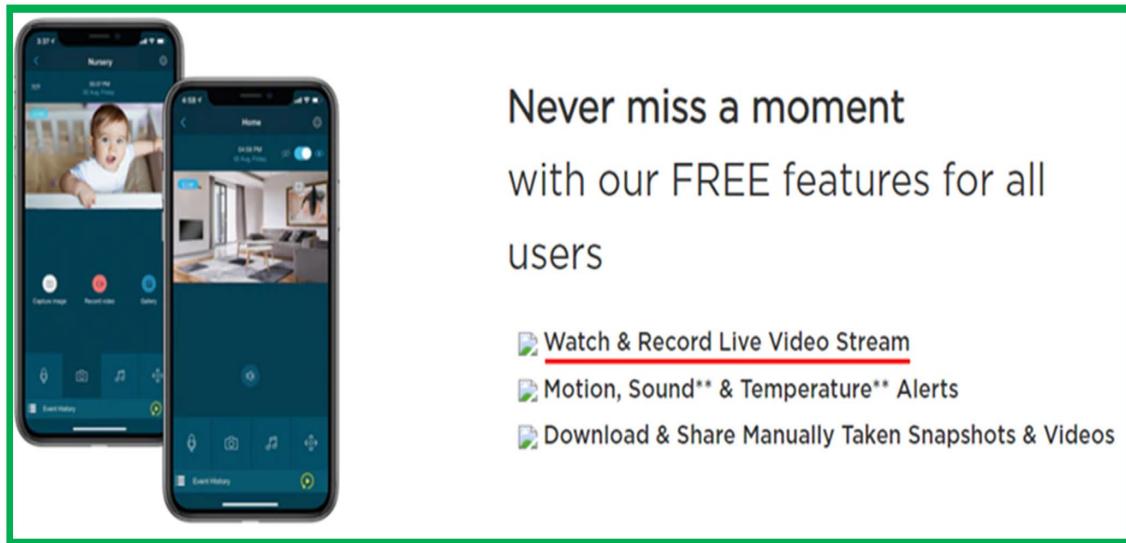
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Source: <https://hubbleconnected.com/pages/hubble-service>

42. The Accused Instrumentalities must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g., the Accused Instrumentalities must verify that a particular requested data is stored in the cloud). Also, a user can view the history of media content and the processor can identify the existence of that particular media content. Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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You should be aware that videos are deleted from the Hubble Connected for Motorola Monitors app and our servers on an ongoing basis according to the Hubble Membership Plan you selected.

For example, if you are on the Essentials Hubble Connected Plan, you can see any videos within 14 days day period, and as events pass this period they are also deleted forever. You have the option of downloading motion-triggered videos to your chosen device(s).

Source: <https://support.hubbleconnected.com/knowledge-base/how-and-where-are-my-motion-triggered-videos-saved-and-stored/>

Last 30 Days of Motion Detection Video (Subscription Service)

Connect for your Hubble Connected Device accessing the live feed, and in addition, you will be able to view any 'events' captured via your device. These 'events' are short videos that are recorded to the Cloud when motion is detected by your device. This service can be applied to up to 15 Hubble Connected devices.

Source: <https://hubbleconnected.com/pages/hubble-service>

43. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., user access restrictions, etc.). Certain aspects of these elements are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

HubbleClub app allows you to connect to the new line of Hubble Connected Nursery products that allows you to watch over your baby and stream video feed anytime and from anywhere. Review daily summaries, sleep insights about your baby's wellbeing. Receive sound, motion, and temperature alerts in real-time, straight to your phone. Use baby growth and development tracker to track our baby's height, weight, sleep schedules, feeding times, diaper changes, and pumping durations.

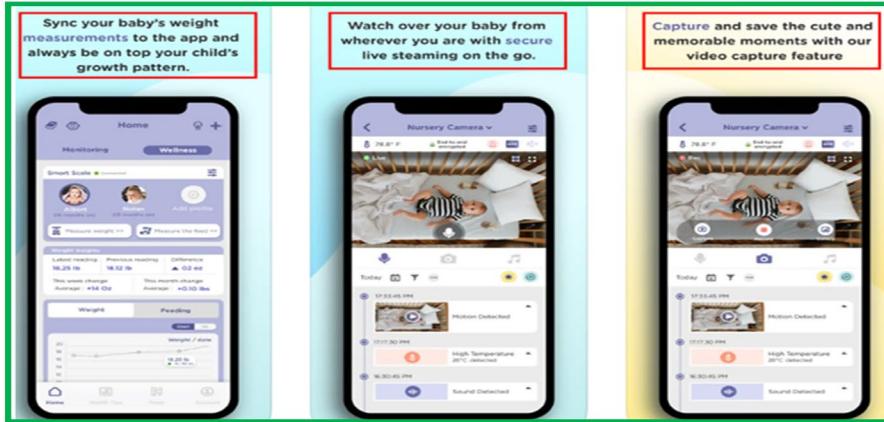
Source: <https://apps.apple.com/ca/app/hubbleclub-by-hubble-connected/id1552190877>



Never miss a moment
with our FREE features for all
users

- Watch & Record Live Video Stream
- Motion, Sound** & Temperature** Alerts
- Download & Share Manually Taken Snapshots & Videos

Source: <https://hubbleconnected.com/pages/plans>



Source: <https://apps.apple.com/ca/app/hubbleclub-by-hubble-connected/id1552190877>

You can download any captured video to your in-app gallery. This will store the video within the app on your phone rather than in the cloud. You can also manually download videos directly to your phone's gallery, other cloud storage services, or share them by email, SMS, WhatsApp, Facebook and other sharing services.

Source: <https://support.hubbleconnected.com/knowledge-base/how-and-where-are-my-motion-triggered-videos-saved-and-stored/>

Motion-triggered videos are automatically stored in our secure cloud servers* and uploaded onto your timeline in the Hubble Connected for Motorola Monitors app and the Hubble Connected web app.

You should be aware that videos are deleted from the Hubble Connected for Motorola Monitors app and our servers on an ongoing basis according to the Hubble Membership Plan you selected.

For example, if you are on the Essentials Hubble Connected Plan, you can see any videos within 14 days day period, and as events pass this period they are also deleted forever. You have the option of downloading motion-triggered videos to your chosen device(s).

Source: <https://support.hubbleconnected.com/knowledge-base/how-and-where-are-my-motion-triggered-videos-saved-and-stored/>

With Hubble Connected, you can also stay connected to your loved one on-the-go with features like

- Secure Live Streaming
- Video Recording during live feeds
- Two-way talk
- Soothing lullabies and audiobooks
- Extended camera sharing with friends and family
- Motion activated video recordings
- Secure Cloud Video Storage
- Online Sleep Consultant

Source: https://play.google.com/store/apps/details?id=com.hubblebaby.nursery&hl=en_CA&gl=US

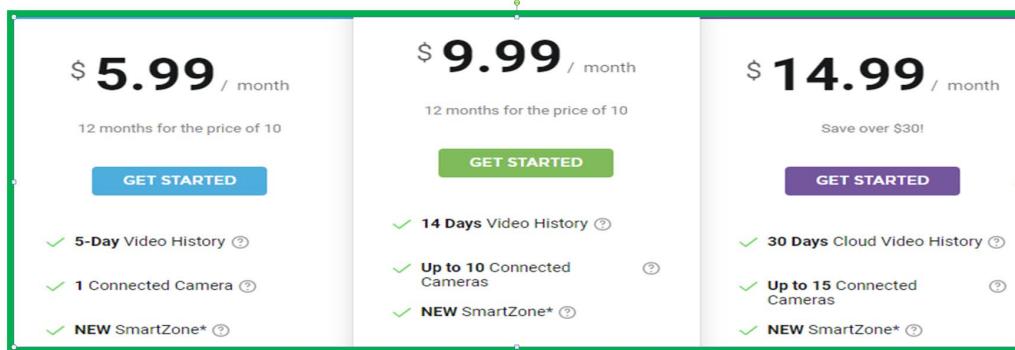
Can I record motion videos 24/7?

Unfortunately, it is not possible. Currently we do not offer 24/7 recordings.

At the moment we offer 3 membership plans:

- **Lite** plan offers 5 days of video storage and can be applied to 1 camera;
- **Essentials** plan offers 14 days of video storage and can be applied to 10 cameras;
- **Select** plan offers 30 days of video storage and can be applied to 15 cameras.

Source: <https://support.hubbleconnected.com/knowledge-base/can-i-record-motion-videos-24-7/>



Source: <https://hubbleconnected.com/pages/plans>

44. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

45. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

46. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

47. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

48. By engaging in the conduct described herein, Defendant has injured Plaintiff and is liable for infringement of the '221 Patent, pursuant to 35 U.S.C. § 271.

49. Defendant has committed these acts of literal infringement, or infringement under the doctrine of equivalents of the ‘221 Patent, without license or authorization.

50. As a result of Defendant’s infringement of the ‘221 Patent, injured Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant’s past infringement, together with interests and costs.

51. Plaintiff is in compliance with 35 U.S.C. § 287.

52. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement of the ‘221 Patent up until the date that Defendant ceases its infringing activities.

DEMAND FOR JURY TRIAL

53. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff running royalty from the time judgment going forward);
- (c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: March 16, 2023

Respectfully Submitted,

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